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COLUMBIA, SOUTH CAROLINA

April 3, 2007

**VIA ELECTRONIC FILING  
HAND DELIVERED ORIGINAL**

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**Re: DOCKET NO. 1997-239-C Proceeding to Establish Guidelines for an  
Intrastate Universal Service Fund**

Dear Mr. Terrini:

Pursuant to the Commission's directive enclosed for filing please find the Submission of the South Carolina Cable Television Association, CompSouth, Time Warner Telecom of South Carolina, LLC and NuVox Communications, Inc. regarding the USF issues which should be addressed in the Universal Service Fund docket. By copy of this letter we are serving the same on all parties of record. Please stamp the extra copy provided as proof of filing and return it with our courier.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.

Frank R. Ellerbe, III

/bds  
enclosure

cc: Parties of record  
Ms. Nancy Horne (via email)  
Ms. Carolyn Ridley (via email)  
Ms. Susan Berlin (via email)

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COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS.*

IN RE: )  
 )  
 ) **SUBMISSION OF SOUTH CAROLINA**  
 ) **CABLE TELEVISION ASSOCIATION,**  
 Proceeding to Establish Guidelines for ) **COMPSOUTH, TIME WARNER**  
 an Intrastate Universal Service Fund ) **TELECOM OF SOUTH CAROLINA, LLC,**  
 (USF) ) **AND NUVOX COMMUNICATIONS**  
 ) **INCORPORATED REGARDING USF**  
 ) **ISSUES WHICH SHOULD BE**  
 ) **ADDRESSED**

**1. The Commission must make changes in the USF Guidelines to ensure that companies receiving subsidies from the USF are not over-recovering.**

***This document is an exact duplicate, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions***

explicit subsidy payment from the USF and continued implicit support from other services. Under the current guidelines the ORS, as administrator of the USF, knows the total amount of support to which the CLR is entitled and it knows the amount of explicit subsidy the CLR is receiving but it does not know what implicit support the CLR is receiving from other services. The ORS cannot determine whether CLRs are over-recovering unless the Commission promulgates guidelines which require the reporting of implicit support received by CLRs from other services.

Developments over the last several years have increased the need for revisions to the guidelines to prevent over-recovery. The South Carolina General Assembly has enacted legislation to promote competition in the telecommunications market. That legislation is intended to replace regulation with competition and it has allowed most of the Local Exchange Companies to move from being rate-base regulated to being "alternatively" regulated. The alternatively regulated companies no longer report their earnings to the Commission, meaning that these companies no longer submit regular earnings reports. Thus the Commission and the ORS have lost a tool which could have alerted them to potential over-recovery from the USF. In addition, it is critical to the functioning of the competitive telecommunications market envisioned by the General Assembly that companies compete on a "level playing field." Over-recovery of subsidies by ILECs will give them an unfair advantage. It is the responsibility of the Commission and the ORS to revise the guidelines to include safeguards to prevent such over-recovery.

**2. The Commission must revise the guidelines to ensure that CLRs are obtaining their USF subsidies based on current cost information.**

As discussed above, when the Commission originally created the USF it applied the formula of §58-9-280(E)(4) to calculate a subsidy amount for each CLR. Under the phase-in plan, each CLR obtained the full amount so calculated in part by an explicit subsidy and by implicit support from other services. The phase-in plan only required new cost studies when a CLR applied for more than 33% of its total subsidy amount. The phase-in plan left to the discretion of the CLRs when they would ask for more explicit funding. Most of the CLRs have not exceeded the 33% level and are therefore still recovering from the USF based on cost studies in which 1996 cost information was used.

The guidelines must be revised to address the problem of stale cost information. Subsection 58-9-280(e)(5) requires that a CLR take money from the USF based on a "...demonstration of the difference between its cost of providing basic local exchange services and the maximum it may charge for such services." Section 58-9-280(E)(6) requires CLRs to submit cost information in order to seek reimbursement from the fund. These provisions require a demonstration of current costs, not cost information which is ten years old. The current guidelines don't comply with §58-9-280(E)(5) or (6) because they allow CLRs to take money from the USF based on completely out of date information.

**3. The Commission must revise the guidelines to address the issue of deregulated bundled and contract service offerings.**

The Commission should investigate the question of whether any carriers of last resort are receiving USF support based on access lines which are sold as part of

bundled or contract offerings. The guidelines should be revised to address the issue. Section 58-9-280(E) provides that the USF is to be used to support the universal availability of basic local exchange service. Pursuant to S.C. Code Section 58-9-280(E)(8) the definition of services which can be supported by the USF can only be expanded after a hearing specifically addressing that issue. No such hearing has been held; therefore CLRs should only be receiving subsidies for services sold as tariffed offerings described by §58-9-10(9). Section 58-9-285 deregulates both bundled and contract offerings. CLRs should not be receiving subsidies from the USF for unregulated services.

- 4. The guidelines should be revised to clarify that the explicit subsidies received from the USF are received on a per line basis. CLRs should be required to submit reimbursement requests on a per line basis.**

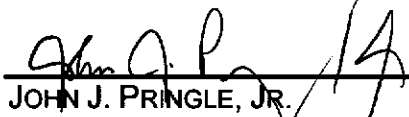
Petitioners have been informed that all CLRs are receiving subsidies from the USF based on the count of subscriber lines in service at the time that the CLRs were last approved for an explicit subsidy amount. Under the Commission's phase-in plan the amount of subsidy is supposed to be tied to the number of access lines that the CLR actually has in service. The worksheet attached to the guidelines requires the calculation of a subsidy amount on a per line basis. The CLRs should be submitting access line information so that the ORS as Administrator of the USF can determine the amount of subsidy which the CLR should be receiving.

The issues which are described in this submission relate to the USF as it currently operates. Petitioners have raised other issues in previous proceedings and continue to believe that those issues will require wholesale changes to the USF when

they are ruled on by the courts. In the meantime, the Commission should move forward to address the issues set out in this document to avoid further legal defects in the USF.


Dated this 3<sup>rd</sup> day of April, 2007

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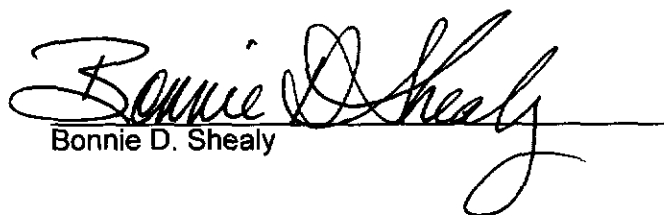
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Dated at Columbia, South Carolina this 3<sup>rd</sup> day of April, 2007.

  
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